

WEBINAR WEDNESDAYS



Wednesday, July 1, 2020

**ANIMAL CRUELTY INVESTIGATIONS IN THE
DIGITAL AGE:
HOW PROSECUTORS CAN HARNESS TODAY'S
TECH TOOLS TO COMBAT CRUELTY TO ANIMALS
AND HUMANS**

Presented by:

Erin Aiello

Assistant Northwestern District Attorney, Massachusetts

&

Casey Mundell

Deputy Maricopa County Attorney

Distributed by:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL

3838 N. Central Ave., Suite 850

Phoenix, Arizona 85012

ELIZABETH BURTON ORTIZ

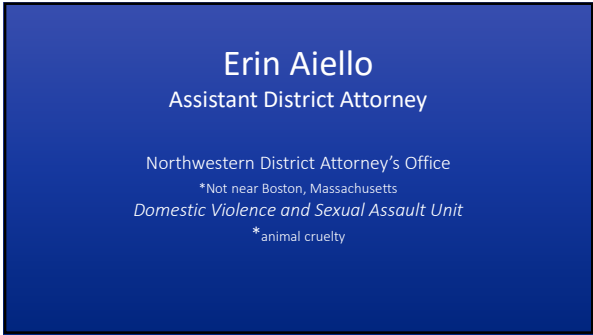
EXECUTIVE DIRECTOR



1



2



3



4



5



6

Commonwealth v. Sabrina Harding
Commonwealth v. Jacob Brousseau





7

The couple was arrested Wednesday night after police received a complaint about a foul odor coming from the first floor of a house on South Second Street in New Bedford, Massachusetts.


Animal control officers were called to the house and reported that there were hundreds of flies in the hallway and a heavy odor of decaying animals.

A room in the first floor apartment was blocked off by a box spring mattress and a bureau. Once the barriers were removed, the officers found animals in the room. While some were in cages, others were not.

Officers found a total of 46 animals, including cats, lizards, rabbits, birds, as well as a dog. The dog was tethered by a short leash to a door knob.


Twenty-three of the animals were dead.


Harding was alleging obtaining the animals from places like Craigslist. She would promise the former owners a good home for the animals, but instead was trying to sell them for profit and letting them die.



8

Photo Documentation





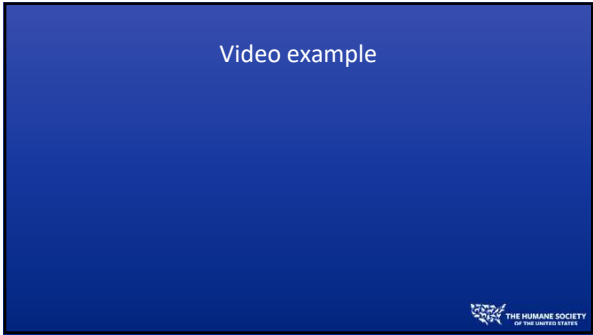
9



10




11



12

Important to Consider

- What this evidence means for your case
- How evidence will be admitted at trial i.e. what can you do in the investigation stages to ensure evidence comes in at trial
- How will you ultimately prove this evidence is relevant and pertains to the suspect/defendant



13

Establish Custody/ownership








14

Determining ownership/custodianship


- Abuse cases do not require a custodial relationship
- Minors cannot be owners, but can be charged in physical abuse cases regardless of custodianship
- Law may be very liberal - living on the same property often constitutes custodianship
- Any member of household with legal right to the area where the animal is kept can show investigators the animal if the owner/custodian is not present

15



Items to consider:

- Rental agreement
- Dog licenses
- Vet records
- Surrender forms
- Social media Presence
- Witnesses (friends, reporting party, neighbors)
- Use of Media!



16



Law Enforcement Freeze/Subpoenas

17

Search warrant (Physical) and Digital

- Exigency? SW needed?
- Seizure of Animals
- Photos
- Seizure of phones, computers, flash drives, devices capable of internet
 - Images/videos
 - Google searches
 - Text messages
 - Email
 - Social Media

18

Civil Forfeiture

- A.R.S. § 13-4281
- Allows for the lawful seizure of the animal(s) so they can be properly cared for, treated and eventually rehomed to a responsible party
- Usually occurs prior to charges even being filed
- Must give proper notification of seizure and will trigger a post seizure hearing if requested by owner within ten days
- Is a civil hearing where suspect owner can be cross-examined



19

Animal Seizure Form



20

Critical resources

- Law enforcement? Sex Crimes? Narcotics?
- Veterinarians
- Animal welfare professionals
 - humane societies
 - shelters
 - stables
 - groomers, etc.
- Social service agencies
 - family shelters, child and adult service agencies
- Department of Agriculture
- Department of Health



21

Veterinary assessment





- If not possible, animals should be transported directly to a vet for examination after physical and living conditions have been thoroughly documented





22

- Animals should be taken to vet for an exam and additional photographs
- Vets should do basic general exam including body condition scoring and medical sheet

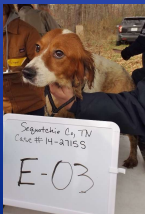

23


- Vets are not always trained in providing reports or testifying at trial
- Ask for specific findings and conclusions
- Language a layman can understand
- Ask for an opinion for causes of injuries or death, if known
- Provide a sample report if they have not worked a cruelty case before

24

Close up photos should be taken during veterinary exams.
Include identification number.








25

Necropsy

- Depending on specific findings, there may be additional charges
- If animal is deceased, vet should conduct necropsy to determine:
 - Survival period
 - Estimated time of death
 - Primary cause of morbidity/mortality
 - Contributory causes of death






26

Prosecutorial evaluation of the case

- Strengths or most compelling aspects of the case?
- If neglect, is custody clear?
- Evidence of intent?
- Veterinarian(s) opinion?
- Has evidence been handled properly?
- Possible defenses/mitigating circumstances?
- Other charges filed besides cruelty?






27

Which animal victims to charge?

- With larger # of animals, some prosecutors may choose only the most egregious and easily proven instances of abuse
- In most cases multiple counts may be filed using each instance of abuse as a distinct offense
- Use standards of care to assess best candidates to charge (if not all)



28

What about the healthy animals?



- Document all animals, including those who appear healthy
- Their presence does not undermine cruelty charges
- These animals are likely still at risk
- Many reasons for varying conditions:
 - Survival of the fittest (especially in group housing)
 - Animals in better condition may have arrived later
 - The fact a person is caring for some animals can show knowledge of what is required.
- They were living in the same conditions.




29

Pre-trial motions



- Possession ban as condition of release
- Cost of care/forfeiture hearing
- Mental Health Evaluation

30

Cost of care

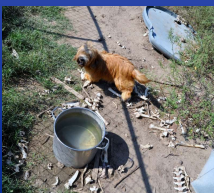

- Surrender is ideal, which is what happened in this case.
- If unattained, local authorities must provide care until case is adjudicated
- If allowed by law, request court to require defendants to post a bond or security towards cost of care
- Usually based on a reasonable cost of care per animal per day, must be paid in advance on a month-by-month basis
- Failure to comply typically results in forfeiture of animals
- Look into lien/foreclosure statutes

31

Plea agreement considerations

- Whenever possible, animal abuse charges should not be reduced or dismissed, even in exchange for a more "serious" charge
- These charges should seldom, if ever, be eligible for pretrial intervention programs

32

Plea agreement considerations

- Can trigger special statutory sanctions, enhanced future penalties, and requirements from the court during probation, including specialized animal abuse treatment, ban on possessing animals, etc.
- Must preserve record of these crimes to serve as warning to judges, prosecutors, police, probation officers, as well as agencies involved in overseeing a defendant or helping a victim
- If he/she offends again, critical to show history of neglect/abuse




33

Specific Language Is Important


- "Defendant shall not own, possess, transport, harbor, supervise, or have under his custody or control, an animal of any type. Defendant shall not have an animal of any type located on any property on which he resides, rents, or owns. Defendant shall make reasonable and humane accommodations for any animals currently living on his property within 30 days of the change of plea date..."



34

Sentencing considerations

- Long-term forfeiture of pet ownership
- Animal cruelty prevention programs (psychological counseling)
- Periodic unannounced rechecks
- For youthful offenders, ban contact with accomplices
- Court-ordered psychological evaluation
- Do not recommend community service with animals

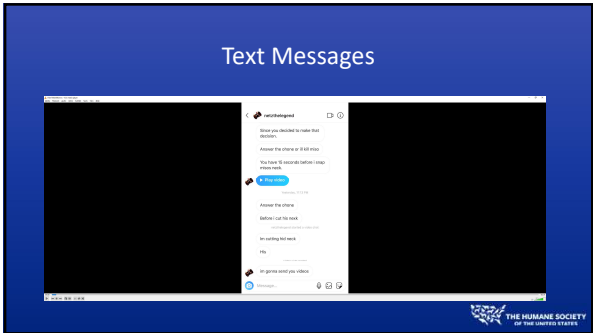


35

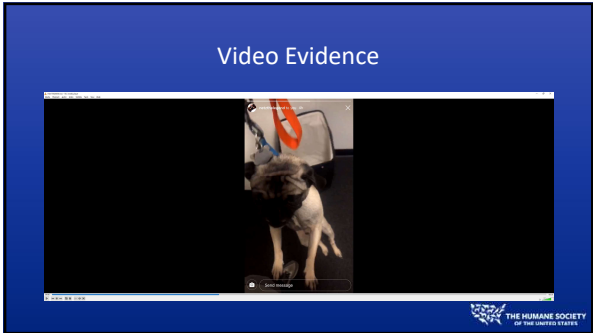
State v. Netzer Villagomez




36



37



38



39

Commonwealth v. John Doe (18 yo)

- Police respond to a residence for a report of a threatening text message involving a stolen dog. The reporting party called 911 to report that his cousin receive da text message stating that they had their dog and they threatened to kill it.
- When the police arrive they meet a female pit-bull mix, and observed what looked like dried blood on the dog's head, face, and snout. Dog appeared to be anxious. Better with female police officer.
- Pitbull belongs to father of defendant, but father was in hospital.
- D says he receives a text message from an identified phone number.
 - "I have your dog asshole."
 - "That's her before she dies."
 - Followed by a picture of a dog covered in a dried dark substance in what appeared to be a basement.
- Defendant only shows the officer the screen shot of the text message not the thread because he deleted them. Officer questioned the defendant about deletion.



40

- Officer grows suspicious about defendant's explanation and behavior. Officer questions the defendant regarding timeline.
- When officer returned to the police station, he researched the unidentified phone number.
 - Came back to "Bandwidth" as a provided. PD was able to obtain a contact number for "Subsention" an agency that oversees subscriber information. The agency advised PD that the number belonged to the Defendant. Furthermore, they were able to show the phone number was generated through an app called Talkatone (free talk and text app).
- Police learn defendant has a history of hurting and/or killing small animals and pets (ferrets) Defendant had history of harming the female Pit-bull (standing on her head with both feet).
- Police go back to the home of the defendant and arrest him. The cousin who was the reporting party said he suspected it was his cousin.



41

- Cousin gives consent to the basement. Basement appears to be the place where the dog was kept. Makeshift tether found around a pipe. Feces found all over the floor. Some of the feces had mold. Dog there for an extended period of time. Water on the floor. Black mold. 16 degrees. Basement had trash and prescription bottle for the defendant.
- Defendant claims it was a prank that went too far. Separated her from her puppies and poured cough syrup over her.
- Defendant signed "Consent to Search Electronic Device" form. PD located Snapchat video created by Defendant. The video showed the pit-bull with the defendant narrating that someone had beaten the dog and he was calling the police.
- Police had Defendant walk the PD through the apps he used. Talktone, Snapchat, and PixArt.
- PD interviews family and learns that the Defendant:
 - Favored male dog in the home and showed aggression to female dog
 - History of false allegations
 - History of mental health



42

Strengths


- Photos of the text message
- Photos of the basement
- Photos of the dog
- Interview of the defendant after Miranda
- Device Consent form
- Apps found on phone
- Snapchat video
- Walking Defendant through the apps
- Witness statements
- Weather.com print outs
- Mental Health background
- Prior Bad Acts (Animal Cruelty, etc.)
- Police Observations
- Vet assessment (full physical exam)
- Defendant held on bail
- Disturbing nature of case



43

Weaknesses

- Would have preferred SW on phone
- Neglect/Intentional Cruelty is weak
- Custody issues creates difficulty with proving neglect
- Family witnesses can be unreliable




44

Case Example

March 2019 – NH, Massachusetts


- Relationship with D for three months, moved in with her and two kids
- Began fighting intensely and she asked D to leave her home
- She and children left for the weekend to allow the D to move out
- When she arrived home, she found her cat "Goose" under a table, laying in a puddle of urine, blood, and clumps of hair. Cat was still alive and moaning in pain.
- D told her that he threw the cat against the wall because it was fighting with the family Chihuahua.
- Cat was euthanized due to fractured skull and spine, swollen brain, and bruising.



45

What's the take-away?



- Imagine the earlier examples, but without the animal cruelty component.
- Would the victims have come forward? Would they remain involved?
- Would the police report be as extensive?
- Would there have been photos?
- Would the court have taken it as seriously?
- Would it have been a plea?
- Would it have been a not guilty after trial?
- Would have I been able to address the same issues on DV case with AC probation?
- Northampton Defendant- 2 CWOs and 1 RO



46


HSUS tip line 1-877-TIP-HSUS

**Contact our Animal
Rescue Team**
<https://www.humanesociety.org/forms/contact-animal-rescue-team>

47

Thank you!




For state-specific information or assistance please contact your HSUS state director:

Kellye Pinkleton
kpinkleton@humanesociety.org

Any follow-up questions please email us:

Casey Mundell
Mundellc@mcao.maricopa.gov

Erin Aiello
eaiello@humanesociety.org



48
